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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. C99-1/8

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Complaint on Post E.C.S.

Docket No C99-1

PRESIDING OFFICER'S RULING GRANTING
MOTION OF UNITED PARCEL SERVICE FOR
EXTENSION OF TIME TO FILE CASE-IN-CHIEF AND
FOR SCHEDULING A PREHEARING CONFERENCE

(July 23, 1999)

On July 15, Complainant United Parcel Service filed a motion for an extension of time in which to file its case-in-chief in this proceeding; for the scheduling of a prehearing conference to determine further procedures in this case; and for expedited responses to its motion.¹ In Presiding Officer's Ruling No. C99-1/6, I granted the request for expedited responses, establishing a due date of July 21, 1999. The Postal Service, the Office of the Consumer Advocate, and intervenor Coalition Against Unfair USPS Competition (CAUUC) filed timely responses.²

No party opposes Complainant's motion for extension of time for filing its direct case. OCA and CAUUC state unqualified support for that request, citing the paucity of information produced to date by the Postal Service in response to Complainant's

¹ Motion of United Parcel Service for Extension of Time to File Case-in-Chief and for Expedited Response Hereto, July 15, 1999.

² United States Postal Service Response to Motion of United Parcel Service for Extension of Time to File Case-in-Chief and for Expedited Response Hereto, July 21, 1999; Office of the Consumer Advocate Response in Support of Motion of United Parcel Service for Extension of Time to File Case-in Chief (OCA Response), July 21, 1999; [CAUUC] Statement in Support of Motion of United Parcel Service for Extension of Time to File Case-in-Chief and for Expedited Response Thereto, July 23, 1999.

discovery requests. Additionally, OCA notes the continuing uncertainty regarding the scope of the first phase of this proceeding.³ While the Postal Service does not oppose the requested extension in principle, it argues that a ruling granting it should specify the date by which Complainant's case-in-chief is to be filed, and should direct that discovery against the Service expire within 7 days of that ruling's issuance.

I will grant Complainant's motion for an extension, but without the conditions suggested by the Postal Service. As UPS and the supporting parties note, little information has been produced by the Postal Service, and there are several outstanding discovery disputes to be resolved.⁴ Contrary to the Service's suggestion, it would be premature to project the date by which these matters will be settled, or the subsequent date by which Complainant will have had sufficient opportunity to incorporate the information produced into its direct case.

On much the same grounds, I will also grant Complainant's motion for scheduling a prehearing conference to facilitate the adoption of further procedures in this phase of the case. Contrary to the Postal Service's argument that such a conference would serve no useful purpose "since many of the topics fit for discussion at such an event have already been resolved[.]" Postal Service Response at 4, the Report of July 14⁵ and the filing of additional motions to compel demonstrate that there are considerable amounts of information the production of which remains controversial. I agree with Complainant, OCA and CAUUC that a prehearing conference would be useful for arranging the "timely completion of discovery from the Postal Service" and

³ OCA Response at 2. On July 15, UPS filed a Motion for Clarification or Reconsideration of P.O. Ruling No. C99-1/3, in which it states that the Postal Service has asserted the position that discovery on the Service's jurisdictional claim that Post E.C.S. is not a domestic mail service is beyond the scope of the first phase of this proceeding.

⁴ In addition to interrogatories that were the subjects of two UPS motions to compel responses and that remain in controversy, Complainant filed additional motions to compel on July 20 and July 22.

reaching "[a]greement as to procedures for timely discovery with regard to any future evidentiary filings." 39 C.F.C. § 3001.24(d)(2), (3).

I also reject the Postal Service's further suggestion that, if a prehearing conference is to be held, it should be scheduled *after* the filing of Complainant's case-in-chief. In view of the controversies impeding the completion of discovery, and use of the information thereby produced in the direct cases of UPS and any other interested parties, there exist several issues that may be resolved by a prehearing conference held before Complainant's direct case is filed.

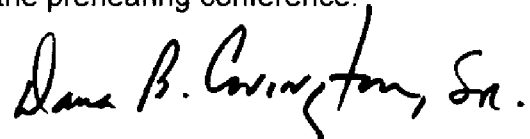
Accordingly, I will schedule a prehearing conference in this docket for Tuesday, August 10, 1999.

RULING

1. The Motion of United Parcel Service for Extension of Time to File Case-in-Chief, filed July 15, 1999, is granted.

2. A prehearing conference in this proceeding will be held in the Commission's Hearing Room on August 10, 1999, beginning at 9:30 a.m.

3. The deadline for filing Complainant's case-in-chief, and the direct cases of any other parties, will be determined following the prehearing conference.


Dana B. Covington, Sr.
Presiding Officer

⁵ Report on Discussions Between the United States Postal Service and United Parcel Service in Response to Presiding Officer's Ruling No. C99-1/3, July 14, 1999.